

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

APR 6 2008

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OFFICE OF  
MANAGING DIRECTOR

Robert C. J. Klein, C.P.A.  
Vice President of Accounting,  
Finance and Administration  
VITC Telecommunications, LLC  
Global Headquarters  
1010 Lake Street, Suite 400  
Oak Park, IL 60301

Re: VITC Telecommunications  
Call Sign 822826  
FY 2005 Regulatory Fee  
Fee Control No. 06012783565098001

Dear Mr. Klein:

This is in response to your request (*Request*) filed on behalf of VITC Telecommunications (VITC) for a waiver of the penalty for late payment of the fiscal year (FY) 2005 regulatory fee associated with Call Sign 822826. Our records reflect that the late charge penalty of \$1,215.54 has not been paid. For the reasons stated herein, we deny your request.

You state that according to the Commission's Regulatory Fees Fact Sheet for Interstate Telecommunications Service Providers (ITSPs), VITC, as an ITS provider, "should have received a package that included a pre-filled Form 159-W notifying us of the annual fee requirement adjustment for 2005 as well as the total amount due."<sup>1</sup> You assert that "[a]s we never received this original invoice, and have never been previously subject to the ITSP regulatory fee, we were unaware of the payment obligation until recently receiving a collection notice from the FCC[.]"<sup>2</sup>

The Communications Act of 1934, as amended, requires the Commission to assess a penalty of 25 percent on any regulatory fee not paid in a timely manner.<sup>3</sup> The Commission's rules provide that a timely payment is one received at the Commission's lockbox bank by the due date.<sup>4</sup> It is the obligation of the licensees responsible for regulatory fee payments to ensure that the Commission receives the fee payment no later than the final date on which regulatory fees are due for the year. Your request does not indicate or substantiate that VITC met this obligation. Although VITC may have relied upon receiving a pre-printed FCC Form 159-W from the Commission in paying the FY

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<sup>1</sup> *Request* at 1.

<sup>2</sup> *Id.*

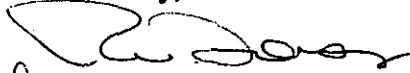
<sup>3</sup> 47 U.S.C. §159(c)(1).

<sup>4</sup> 47 C.F.R. §1.1164.

2005 regulatory fee, this does not support a waiver of the late charge penalties. The Commission takes great care to inform its licensees of the due dates, amounts of the fees, and payment methods in public notices and fact sheets, which information it also posts on its web site, [www.fcc.gov](http://www.fcc.gov). For the FY 2005 regulatory fees, the Commission timely released several public notices and news releases informing licensees of the September 7, 2005 deadline for filing regulatory fees and explaining how to calculate the ITSP regulatory fee, and posted these items on its web site.<sup>5</sup> The Commission has repeatedly held that "[l]icensees are expected to know and comply with the Commission's rules and regulations and will not be excused for violations thereof, absent clear mitigating circumstances."<sup>6</sup> We therefore find that VITC did not meet its obligation to file its FY 2005 regulatory fee to be received by the Commission no later than September 7, 2005. Accordingly, we deny your request for waiver of the penalty for late payment of the fiscal year 2005 regulatory fee.

Payment of VITC's \$1,215.54 late charge penalty for late payment of the FY 2005 regulatory fee is now due. The late charge penalty of \$1,215.54 should be submitted, together with a Form 159 (copy enclosed), within 30 days of the day of this letter. If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark Stephens  
Acting Chief Financial Officer

Enclosure

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<sup>5</sup> See *Assessment and Collection of Regulatory Fees for Fiscal Year 2005, Report and Order*, FCC 05-137, 2005 WL 1585408 (2005); Public Notice, *Payment Methods and Procedures for Fiscal Year 2005 Regulatory Fees*, DA 05-2087 (July 27, 2005) (announcing the September 7, 2005 filing deadline and stating that late payments will be assessed a 25 percent late payment penalty); Public Notice, *Fee Filer Now Available for 2005 Regulatory Fees*, DA 05-2088 (Aug. 1, 2005) (reminding of filing deadline); *Regulatory Fees Fact Sheet, What You Owe – Interstate Telecommunications Service Providers (ITSP) for FY 2005* (July 2005) (stating "that there is a penalty for not submitting the entire fee in a timely manner" and providing instructions for calculating and paying the FY 2005 regulatory fee, with specific instructions for those who did not receive a bill); Public Notice, *Commission Extends Regulatory Fee Filing Window for Those Regulatees Affected by Hurricane Katrina*, DA 05-2396 (Aug. 31, 2005) (reminding licensees and regulatees that "the Commission's rules concerning late payment or non-payment [of regulatory fees] will be enforced")

<sup>6</sup> See *Sitka Broadcasting Co., Inc.*, 70 FCC 2d 2375, 2378 (1979), citing *Lowndes County Broadcasting Co.*, 23 FCC 2d 91 (1970) and *Emporium Broadcasting Co.*, 23 FCC 2d 868 (1970).



VITC TELECOMMUNICATIONS, LLC  
Global Headquarters  
1010 Lake Street • Suite 400  
Oak Park • IL • 60301  
Tel 708 386 3080 • Fax 708 386 3918

060127835 65098001

Attn: Financial Operations Help Desk  
Re: Invoice #5RE008360

Dear Sir or Madam:

Enclosed please find full payment for the 2005 FCC Regulatory Fee billed to Call Sign: 822826 in the amount of \$4,862.15.

With regards to our 2005 499-A submission, we primarily provide service as an Interstate Telecommunications Service Provider (ITSP). As such, based on the Regulatory Fees Fact Sheet for ITSPs found on the FCC website (<http://www.fcc.gov/fees/regfees.html>), footnote 1, we should have received a package that included a pre-filled Form 159-W notifying us of the annual fee requirement adjustment for 2005 as well as the total amount due. As we never received this original invoice, and have never been previously subject to the ITSP Regulatory Fee, we were unaware of the payment obligation until recently receiving a collection notice from the FCC Revenue & Receivables Operation Group. Based upon the above facts and circumstances, we respectfully request a waiver of the 25% late fee in the amount of \$1,215.54.

Should you have any questions that require my further clarification, please don't hesitate to contact me at +1 (708) 386-3080 x. 204, or by email at [bklein@vitcnet.com](mailto:bklein@vitcnet.com).

I look forward to your positive response.

Sincerely,

Robert C. J. Klein, C.P.A.  
Vice President of Accounting, Finance and Administration  
VITC Telecommunications, LLC



VITC TELECOMMUNICATIONS, LLC (VITC)  
GLOBAL HEADQUARTERS  
1010 Lake Street, Suite 400  
Oak Park, IL 60301  
Tel. 708.386.3080 Fax. 708.386.3918

FROM		TO:	
Name:	Robert C.J. Klein	Name:	FCC Financial Operations Help Desk
Title:	Vice President of Accounting, Finance and Administration	Company:	
Tel:	[+1] 708-386-3080 x. 204	Tel:	
Fax:	[+1] 708-386-3918	Fax:	[+1] 202-418-7869
Date:	1/25/06	Pages:	4 (including cover sheet)
Subject:	FCC Regulatory Fee Bill #5RE008360		

NOTES:

Dear Sir or Madam,

Please see the attached letter that was just mailed along with our payment via USPS certified mail.

Thank you for your consideration.

Sincerely,

Robert C.J. Klein  
VITC Telecommunications, LLC